

IN THE NATIONAL COMPANY LAW TRIBUNAL,
KOLKATA BENCH,
KOLKATA

CP (IB) No.136/KB/2020

An application under 9 of the Insolvency and Bankruptcy Code, 2016 readwith Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

In the matter of:

Pintu Kumar Das, sole Proprietor and carrying on business in the name and style of 'PCS Electrical, and having its office at 138/5,Sarsuna Main Road, Kolkata-700061

... Operational Creditor

Versus

WB Precision Engineering Solutions Private Limited, a company within the meaning of the Companies Act,1956 having its registered office at 1B, Pal Street, Kolkata-700004.

.....Corporate Debtor

Date of hearing : 19/02/2021

Order Pronounced on :24.03.2021

Coram:

Mr.Rajasekhar V.K., Member (Judicial)
Mr.Harish Chander Suri, Member (Technical)

Counsel appeared through video conference.

1. Mr. Arif Ali , Advocate } For the Operational Creditor
2. Mr. Sayantak Das, Advocate } For the Corporate Debtor

ORDER

Per: Harish Chander Suri, Member (T)

1. The Court convened by video conference on 19/02/2021.
2. This C.P. being C.P.No. 136/KB/2020 has been filed by Mr. Pintu Kumar Das, sole proprietor and carrying on business in the name of style of 'PCS Electrical' and having its office at 138/5, Sarsuna Main Road, Kolkata, West Bengal (hereinafter referred to as the Operational Creditor) under section 9 of the Insolvency and Bankruptcy Code, 2016, seeking Corporate Insolvency Resolution Process in respect of West Bengal Precision Engineering Solutions Private Limited, a corporate entity having its CIN No. U72200WB2006PTC111278 and having its registered office at 1B, Pal Street, Kolkata (hereinafter referred to as the Corporate Debtor)
3. It is submitted in the petition that from November, 2016 to January, 2017, the Corporate Debtor had placed various orders on the Operational Creditor for supplying electrical goods and/or panels of diverse nature and quantity against purchase orders collectively marked as 'Annexure-C' with the petition. It is stated that all the supplies were duly made to the Corporate Debtor vide tax paid invoices and the same had been accepted by the Corporate Debtor without any protest or demur, which have been annexed with the petition as 'Annexures D and E' collectively.
4. The Corporate Debtor had failed and neglected to pay the sum

with respect to the said bills. The Operational Creditor, therefore, issued a Demand Notice dated 27th November, 2019 under section 8 of the Code in Form-3 of the Code on the Corporate Debtor, demanding a sum of Rs.3,98,890.54/- (Three Lakhs Ninety Eight Thousand Eight Hundred Ninety and Fifty Four paise). The said notice was duly served on the Corporate Debtor by Speed Post with acknowledgement due. Tracking Report in that behalf is annexed as 'Annexure-H' to the petition. The Corporate Debtor did not reply to the Demand Notice dated 27th November, 2019 till the date of filing of the petition.

5. In support of its claim, the Operational Creditor has placed on record Bank Statement of the Operational Creditor relating to its Account No. 0086002100015643 in the Punjab National Bank, New Alipore Branch as 'Annexure-J'. In addition to this, the Operational Creditor has also filed, Master Data of the Corporate Debtor, Copy of the purchase orders, Invoices, Ledger, Calculation of interest, Demand Notice, Postal receipt and Computation of the amount in default in Tabular Form and Bank Statement etc. The Operational Creditor has also proposed the name of Mr. Kamal Prakash Singh, (calling to act as Interim Resolution Professional), who has in his letter dated 19th December, 2019 to this Adjudicating Authority submitted that he agrees to accept appointment as the IRP, if an order of admission is passed in the present application and that he is qualified IRP etc.
6. The Operational Creditor has also filed an affidavit under section 9(3)(b), that there is no notice given by the Corporate Debtor relating to dispute of the unpaid operational debt. From the Bank

Statement filed by the Operational Creditor, it is clear that no payment has been received from the Corporate Debtor pursuant to the notice.

7. The Corporate Debtor was duly served, put in appearance through Mr Sayantak Das, Advocate and in spite of opportunity given, no reply affidavit was filed. The matter was finally heard on 19th February, 2021.
8. Having heard both counsel and having seen the petition, its Annexures, the application is complete in all respect, and deserves admission particularly in view of the fact that the Corporate Debtor has neither given any reply to the Demand Notice nor filed any reply before this Adjudicating Authority.
9. We have thus no option but to admit the petition and pass the following orders/directions:-

ORDERS

- i) The application filed by the Operational Creditor under Section 9 of the Insolvency & Bankruptcy Code, 2016 for initiating Corporate Insolvency Resolution Process against the Corporate Debtor, **WB Precision Engineering Solutions Private Limited** is hereby **admitted**.
- ii) We hereby declare a moratorium and public announcement in accordance with Sections 13 and 15 of the I & B Code, 2016.
- iii) Moratorium is declared for the purposes referred to in Section 14 of the Insolvency & Bankruptcy Code, 2016. The I.R.P. shall cause a public announcement of the initiation of

Corporate Insolvency Resolution Process and call for the submission of claims under Section 15. The public announcement referred to in clause (b) of sub-section (1) of Section 15 of Insolvency & Bankruptcy Code, 2016 shall be made immediately.

- iv) Moratorium under Section 14 of the Insolvency & Bankruptcy Code, 2016 prohibits the following:
- a) The institution of suits or continuation of pending suits or proceedings against the Corporate Debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
 - b) Transferring, encumbering, alienating or disposing of by the Corporate Debtor any of its assets or any legal right or beneficial interest therein;
 - c) Any action to foreclose, recover or enforce any security interest created by the Corporate Debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);
 - d) The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.
- v) The supply essential goods or services rendered to the corporate debtor as may be specified shall not be terminated, suspended, or interrupted during the moratorium period.

- vi) The provisions of sub-section (1) shall not apply to such transactions as may be notified by the Central Government in consultation with any financial sector regulator.
- vii) The order of moratorium shall have effect from the date of admission till the completion of the corporate insolvency resolution process.
- viii) Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the resolution plan under sub-section (1) of Section 31 or passes an order for liquidation of the corporate debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or liquidation order, as the case may be.
- ix) **Mr. Kamlesh Prakash Singh**, registered with Insolvency and Bankruptcy Board of India, having Registration No **IBBI/IPA-001/IP-P-0172/2019-2020/12653**, E-mail ID: **kamalprakashco@gmail.com**, Mobile No. **9051911377** and holding AFA under Regulation 7-A of the IBBI (Insolvency Professionals) Regulations, 2016, is hereby appointed as Interim Resolution Professional for ascertaining the particulars of creditors and convening a Committee of Creditors for evolving a resolution plan subject to production of written consent within one week from the date of receipt of this order.

- x) The Interim Resolution Professional should convene a meeting of the Committee of Creditors and submit the resolution passed by the Committee of Creditors and shall identify the prospective Resolution Applicant within 105 days from the insolvency commencement date.
- xi) The Operational Creditor/Applicant is directed to deposit **Rs.50,000/- (Rupees Fifty Thousand only)** with the IRP appointed hereinabove within three days from this order. IRP can claim the preliminary expenses and fees subject to the approval by the CoC and after constitution of CoC.
- xii) Registry is hereby directed to communicate the order to the Operational Creditor, the Corporate Debtor, the I.R.P. and the jurisdictional Registrar of Companies by Speed Post as well as through email.
- xiii) List the matter on **22/04/2021** for filing of **Progress Report**.
- xiv) Certified copy of the order may be issued to all the concerned parties, if applied for, upon compliance with all requisite formalities.

(Harish Chander Suri)
Member (Technical)

(Rajasekhar V.K.)
Member (Judicial)

Order signed on 24.03.2021.

Pj.